



Vocational Assessment and Earning Capacity Evaluation

Prepared for: Antonio Diaz

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Contents

1	Preface	1
2	Key Information	2
3	Executive Summary	2
4	Confidentiality	3
5	Methodology	3
6	Summary of Records	4
	6.1 Summary of Medical Records	4
7	Summary of Impairments	8
8	Summary of Functional Limitations and Restrictions	9
	8.1 Vocational Limitations	9
9	Education History	10
10	Professional / Employment History	10
11	Summary of Work-Related Demands	11
	11.1 Tractor Trailer Truck Driver	11
	11.2 Occupational Requirements of a Tractor Trailer Truck Driver	11
	11.3 Physical Requirements of a Tractor Trailer Truck Driver	12
	11.4 Environmental Working Conditions of a Tractor Trailer Truck Driver	12
12	Activities/Interests	13
13	Vocational Goals	14
14	Vocational Assessment	14
	14.1 Testing	14
	14.2 Assessment Results	15
15	Post-Injury / Current Professional Capacity	15
	15.1 Transferable Skills	15
16	Access to the Labor Market	16
17	Accommodations / Placeability	16
18	Earning Capacity	16
19	Labor Force Participation	17
20	Author	17
21	Conclusion	18

22 Sources19

 22.1 Vocational Resources Consulted: 19

23 Exhibits20

 23.1 Labor Market Survey..... 20

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1 Preface

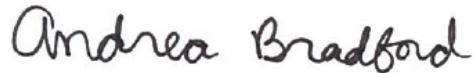
I, Andrea Bradford, an Associate Vocational Specialist of Physician Life Care Planning, LLC, was tasked to assess the vocational and earnings capacities of Mr. Antonio Diaz.

This Vocational and Earnings Capacity Evaluation ("Report") is intended for use by Farrar & Ball LLP in the case of Mr. Diaz.

The work I performed, and the opinions I express herein, are a product of my education, training, skill, and professional experience as a Certified Rehabilitation Counselor (CRC) and Vocational Assessment Specialist.

The measures undertaken by me to formulate my opinions in this matter are ones I deemed necessary. These measures include: the performance of appropriate research, the collection and analysis of relevant documents and data, and a personal interview and assessment of Mr. Diaz, which included vocational testing.

The opinions which are expressed, and the conclusions which are exhibited in this Report were established by me at the time this Report was prepared. I hereby reserve the right to amend my opinions and conclusions should additional information become available, or should it necessary for me to supplement and/or update this Report in the future.



Andrea Bradford, M.Ed., CRC

Certified Rehabilitation Counselor and Vocational Assessment Specialist

Physician Life Care Planning, LLC

2 Key Information

- **Name:** Antonio Diaz
- **Age:** 42
- **Gender:** Male
- **Date of Birth:** August 13, 1975
- **Date of Injury:** January 20, 2015
- **Cause Relevant Injury/Illness:** Motor vehicle accident
- **Primary Injury:** Right leg, left hand, lower back
- **Employer at Time of Injury:** Guzman Trucking
- **Date of Evaluation:** October 2, 2017
- **Employment Status at Time of Evaluation:** Unemployed

3 Executive Summary

Mr. Antonio Diaz was interviewed and received a comprehensive vocational evaluation on October 2, 2017. The objectives of this evaluation were to determine his employability, assess his transferable skills acquired from past occupations, evaluate his earnings capacity, and determine the feasibility of Mr. Diaz receiving vocational rehabilitation services.

Mr. Diaz was evaluated for a total of three hours at my office located at 1250 S. Capital of Texas Highway, Austin Texas 78746. Mr. Diaz reports lower and upper back pain, left hand weakness, right leg pain, and inflammation caused by a motor vehicle accident which occurred on January 20, 2015. On the day of the accident, Mr. Diaz was working and was waiting in line at a checkpoint in his 18-wheeler when another 18-wheeler rear-ended him causing Mr. Diaz's vehicle to turn over onto its side. Mr. Diaz reports that he was unable to get out of his vehicle and Border Patrol had to break the windshield and assist him. After he was removed from the vehicle, Mr. Diaz reports he was transported to Doctors Hospital in Laredo, Texas via ambulance. Mr. Diaz was seen in the emergency room and discharged home two hours later. Mr. Diaz reports that he was given some pain medication and had his leg wound dressed. In March 2016, Mr. Diaz reports receiving an MRI and undergoing surgery on his lower back. Mr. Diaz reports having received physical therapy; however, this was painful and did not provide any progress. Mr. Diaz states that his physician, Dr. Quraishi, provided him with a letter recommending that he not return to work at this time. Mr. Diaz also states that he will require surgery on his hands in the future, but the surgery has not yet been scheduled.

Mr. Diaz is a 42-year-old male who was born on August 13, 1975. Mr. Diaz is married and reports six children. Mr. Diaz resides in Laredo, Texas. Mrs. Diaz is unemployed.

Mr. Diaz was born in Laredo, Texas and graduated from JW Nixon High School in 1993.

From 1993 – 1997, Mr. Diaz was employed as a Cook for various fast food restaurants.

In 1997, Mr. Diaz earned his Commercial Driver's License.

From 1997 – 2015, Mr. Diaz was employed as a Truck Driver for various employers.

Mr. Diaz was incarcerated from 2001 – 2003.

It is my opinion that his current abilities and limitations will negatively impact his employment potential and will most likely make attaining long-term employment difficult.

Due to Mr. Diaz's condition, it is my opinion that he has sustained a loss of between \$31,200 - \$52,000 in annual earning capacity. Assuming the social security retirement age of 67, this amounts to a loss of earnings capacity of between \$780,000 - \$1,300,000. This figure is an estimate, and it does not account for benefits, home services, wage inflation, life cycle adjustments, changes in his current condition, the time value of money, etc.

4 Confidentiality

Mr. Diaz was evaluated in compliance with the ethics of a Certified Rehabilitation Counselor¹.

Mr. Diaz was informed that the purpose of his evaluation was to assess his ability to return to work, specifically to provide an assessment of how his medical impairments and associated functional limitations may impact his employment potential and earnings capacity. He was also informed that the information gathered in his evaluation would be included in a written report and forwarded to his attorney.

5 Methodology

This Vocational Assessment and Earnings Capacity Evaluation uses the RAPEL method. The RAPEL method assesses relevant factors for determining vocational damages (if any). The RAPEL method, developed by Roger O. Weed, offers a comprehensive approach to determining future earning capacity. RAPEL is a standardized methodology that is commonly used by vocational rehabilitation professionals.

The RAPEL methodology has been peer reviewed numerous times and is a widely accepted methodology within the field of Vocational Rehabilitation.

The RAPEL method consists of five factors: ²

1. **Rehabilitation Plan** based on injured individual's limitations, vocational strengths and limitations, cognitive limitations and strengths. This can include testing, accommodation recommendations, future vocational planning and placement and may include potential job analysis.
2. **Access to the Labor Market** determines an individual's access to the labor market. Methods may include using computer software, transferability of skills analysis, disability statistics, and

¹ <https://www.crc certification.com/code-of-ethics-3>

² Owings, Stan. Understanding Earning Capacity Assessment and Earning Capacity Options. American Bar Association, 2009.

experience. This may also represent the individual's loss of occupational choice and is particularly relevant if earnings potential is based on very few positions.

3. **Placeability** represents the likelihood that the individual will be successfully placed in a job with or without rehabilitation or rehabilitation consultant assistance. A labor market survey or job analysis may be completed to gather this information. The individual's personality, cognitive limitations and other factors also may influence the ultimate outcome.
4. **Earning Capacity** is based on the rehabilitation or life care plan and access to the labor market. Also taken into consideration is whether the individual may be employable in the competitive labor market. If employment is a likely outcome, an estimate of the earnings potential is included. Pre-injury and post-injury earning capacity should be looked at as well as current marketable skills.
5. **Labor Force Participation** represents an opinion about the individual's work life expectancy, or amount of time expected to participate in the work force. Considerations are made for part-time or full-time employment based on the individual's specific work participation capacity and accommodation needs. Time off for ongoing medical treatment is also considered as well as time lost from work due to the injury.

6 Summary of Records

6.1 Summary of Medical Records

- **January 20, 2015:** Webb County EMS records indicate Mr. Antonio Diaz was complaining of pain to the right calf area and hand secondary to a motor vehicle accident. Mr. Diaz denied loss of consciousness. EMS personnel noted Mr. Diaz had a small abrasion to the right calf and swelling in the right hand. Mr. Diaz was transported to the Emergency Department of Doctors Hospital of Laredo.

Upon arrival to the Emergency Department of Doctors Hospital of Laredo, Mr. Diaz was complaining of moderate pain to the right knee and calf area, onset just prior to arrival. ED personnel noted Mr. Diaz had no loss of consciousness. Examination revealed a blood pressure of 144/88, severe distress, a Glasgow Coma Scale score of 15, and tenderness to the right knee and right lower extremity. X-rays of the right hand revealed no fracture, dislocation, or soft tissue abnormality. X-rays of the right knee revealed no fracture, dislocation, or soft tissue abnormality. X-rays of the right tibia and fibula revealed no fracture, dislocation, or soft tissue abnormality. Mr. Diaz was provided the impression of contusion-knee and lower leg. Mr. Diaz was prescribed Motrin 800 mg, recommended limited activity and no sports or heavy lifting for 3 days, a follow-up with primary care provider within 1-2 days, and discharged home in improved and stable condition.

- **January 21, 2015:** X-rays of the lumbar spine performed at Laredo Imaging Services/ Laredo Open MRI revealed mild straightening of the spine, there was mild anterior wedging involving the lower thoracic and the first and second lumbar vertebrae, there was evidence of disc space narrowing, mild at the L1-L2 and L5-S1 levels, there was minimal spondylosis, there was no spondylolysis or spondylolisthesis, the sacroiliac joints were unremarkable, and the sacrum was unremarkable.

Mr. Diaz underwent a Chiropractic evaluation with Bruce G. Adams, D.C. for pain to the cervical and thoracic spine and lower back radiating down the left leg. Mr. Diaz reported limited normal activities of daily living due to the pain. Examination revealed restricted and painful cervical and lumbar ranges of motion, positive Valsalva test produced lower back pain, cervical distraction test positive, Soto-Hall test produced lower back pain, and positive Kemp's test, Lasegue's test, Braggard's test, well leg raising, Fajersztajn's test, Patrick's (FABER) test, Ely's test, and Nachlas' test positive right and left, decreased motor function on the right at C5, C5-C6, C7, C8, T1, T12 through L3, L2 through L4, L4, L5, S4, and spinal tenderness and fixation at C1,C2,C3,C5,C6, T6,T8,T10, L2,L3,L4,L5 PI/AS. Dr. Adams provided diagnoses of concussion, driver motor vehicle, displacement of cervical disc, displacement of lumbar disc, brachial neuritis, sciatic, segmental dysfunction cervical, segmental dysfunction thoracic, and segmental dysfunction lumbar. Dr. Adams opined Mr. Diaz's prognosis was guarded and provided a treatment plan which included conservative chiropractic manipulations, cryotherapy, moist heat packs, electrical muscle stimulation, spinal traction, and massage. Records indicate Mr. Diaz was last seen for therapy on March 16, 2015, and released from active care.

- **January 26, 2015:** An MRI of the lumbar spine performed at Laredo Open MRI revealed normal segmentation was assumed, lumbar vertebral bodies showed normal height and alignment on sagittal images, no fracture or significant subluxation, there was disc desiccation at L5-S1 with relative preservation of disc height, conus medullaris was unremarkable, no significant prevertebral or paravertebral soft tissue signal abnormalities were noted, at L1-L2 and L2-L3 there was no significant disc herniation, spinal canal stenosis or neuroforaminal compromise, at L3-L4 there was an approximately 1.5-mm broad-based disc bulge and mild facet joint fluid on the left and no significant spinal canal or neuroforaminal narrowing, at L4-L5 there was an approximately 2-mm broad-based disc bulge without spinal canal or neuroforaminal narrowing, at L5-S1 there was an approximately 4.4-mm central disc protrusion which encroached upon the exiting sacroiliac nerve roots, early facet hypertrophy, there was mild effacement of the thecal sac, and minor left neuroforaminal and mild right neuroforaminal narrowing.

An MRI of the thoracic spine performed at Laredo Open MRI revealed normal height and alignment on sagittal images, no fracture or significant subluxation, intervertebral disc spaces were maintained, the thoracic spinal cord was normal in signal and morphology, no significant prevertebral or paravertebral soft tissue signal abnormalities were demonstrated, at T6-T7 there was an approximately 2-mm broad-based disc protrusion without significant spinal canal or neuroforaminal narrowing, at T7-T8 there was an approximately 3.1-mm right paracentral disc protrusion without significant spinal canal or neuroforaminal narrowing, at T8-T9 there was an approximately 4-mm central disc protrusion which encroached upon the ventral spinal cord and no significant spinal canal or neuroforaminal narrowing, at T9-T10 there was an approximately 3.3-mm broad-based disc protrusion which encroached upon the ventral spinal cord and no significant spinal canal or neuroforaminal narrowing.

An MRI of the cervical spine performed at Laredo Open MRI revealed normal height and alignment of the cervical vertebral bodies, no fracture or significant subluxation, intervertebral disc spaces were maintained, the cervical spinal cord was normal in signal and morphology, no significant abnormalities were demonstrated at the craniocervical junction, no significant prevertebral or paravertebral soft tissue signal abnormalities were seen, at C2-C3, C3-C4, C4-C5, C6-C7, and C7-T1, there was no significant disc herniation, spinal canal stenosis or neuroforaminal compromise, and at C5-C6 there was an approximately 1.2-mm right foraminal disc protrusion with minor right neuroforaminal narrowing.

- **February 25, 2015:** Mr. Diaz underwent an Interventional Pain consultation with Rafath Quraishi, M.D. P.A. for pain to the lower back region. Mr. Diaz reported lower back pain with severity of 7/10, radiating to the lower extremities with weakness and tingling sensation, severe tenderness that radiated to the buttocks region, range of motion limited due to the pain, thoracic pain with severity of 3-4/10, and cervical pain with severity of 3/10. Examination revealed cervical, thoracic, and lumbosacral paraspinal muscle tenderness, positive cervical head compression maneuver, slightly limited range of motion of the cervical spine, limited thoracic range of motion to flexion and extension including lateral rotation, limited lumbosacral range of motion especially with hyperflexion, radiculopathy referable to the L5-S1, decreased Achilles reflexes, paresthesia referable to the S1 distribution, abnormal gait, and severe focal tenderness overlying the sacroiliac joint region and the facet joints bilaterally. Dr. Quraishi reviewed x-rays of the right tibia and fibula, right knee, and right hand performed on January 20, 2015, and MRI of the cervical, thoracic, and lumbar spine performed on "January 27, 2015" (January 26, 2015). Dr. Quraishi provided assessments of motor vehicle accident, cervical spine disc protrusion, thoracic spine disc protrusions, lumbar spine disc protrusion with S1 impingement, posttraumatic sacroiliitis, and posttraumatic facet syndrome. Dr. Quraishi recommended lumbar epidural steroid injection and bilateral sacroiliac joint injection, Flexeril, and a follow-up.

Mr. Diaz underwent administration of fluoroscopy-guided lumbar epidural steroid injection-caudal approach at L5-S1 using 1.5 cc of 0.25 Marcaine, 3 cc of 0.9 sodium chloride preservative free and 60 mg of Kenalog, performed at Miramar Interventional Pain Treatment Center by Dr. Quraishi without complications.

- **February 28, 2015:** Mr. Diaz had a follow-up visit with Dr. Quraishi status post lumbar epidural steroid injection on February 25, 2015. Mr. Diaz reported lower back pain slightly decreased with injections with severity of 5/10, continuation of radiating pain to the lower extremities along with a numbness and tingling sensation, still had residual pain over the buttocks region bilaterally but decreased significantly since the injection, and increased pain when bending backward. Dr. Quraishi noted Mr. Diaz responded well to initial bilateral sacroiliac joint injection and lumbar epidural steroid injection but still had evidence of lower back pain along with radiculopathy and focal tenderness overlaying the facet joints. Dr. Quraishi also noted Mr. Diaz had residual pain to the cervical and thoracic spine regions which was felt secondary to residual sprain/strain. Dr. Quraishi recommended second lumbar epidural steroid injection along with a facet injection and continuation of Flexeril.
- **March 13, 2015:** Mr. Diaz underwent a Neurosurgery consultation with Jose G. Dones-Vazquez, M.D. for low back pain. Mr. Diaz reported constant pain to the low back and neck that radiated to the right leg with numbness, rated the pain as 4/10. Dr. Dones-Vazquez noted Mr. Diaz was taking ibuprofen and had had lumbar ESI with slight improvement. Examination revealed cervical spinous tenderness and lumbar spinous tenderness to palpation, range of motion of the lumbosacral spine with forward flexion of 60 degrees, hyperextension and right and left lateral bend of 25 degrees, and Schober's of greater than 6 cm, and lying straight leg raise positive in back only on the right. Dr. Dones-Vazquez reviewed MRI of the lumbar, thoracic, and cervical spine performed on January 26, 2015. Dr. Dones-Vazquez provided the assessment of displacement-lumbar disc without myelopathy. Dr. Dones-Vazquez opined Mr. Diaz would benefit from microdiscectomy L5-S1 right. Dr. Dones-Vazquez recommended continuation of ibuprofen 800 mg.

Ms. Yvette Mercado of Harlingen Spine & Neurosurgical Institute provided Mr. Diaz with an estimated total cost of lumbar microdiscectomy at L5-S1 as recommended by Dr. Dones-Vazquez to be \$63,000.00 which included surgeon's fees of approximately \$15,000.00, anesthesia and facility approximately \$32,000.00, and spinal and medical equipment monitoring while in surgery approximately \$16,000.00.

- **March 21, 2015:** Mr. Diaz had a follow-up visit with Dr. Quraishi. Mr. Diaz reported continuation of persistent pain to the lower back region, radicular symptoms to the lower extremities had not subsided and continued to be persistent, had painful and limited range of motion especially when bending backwards, rated pain level as 5/10 to the lumbar region, and mentioned that the focal tenderness over the buttocks region continued to decrease, and pain to the cervical and thoracic region had decreased with medications and now minimized, rated as 1/10. Dr. Quraishi recommended a second lumbar epidural steroid injection and continuation of Flexeril.

Mr. Diaz underwent administration of fluoroscopy-guided lumbar epidural steroid injection-caudal approach at L5-S1 using 1.5 cc of 0.25 Marcaine, 3 cc of 0.9 sodium chloride preservative free and 60 mg of Kenalog, performed at Miramar Interventional Pain Treatment Center by Dr. Quraishi without complications.

- **April 18, 2015:** Mr. Diaz had a follow-up visit with Dr. Quraishi status post second lumbar epidural steroid injection on March 21, 2015. Mr. Diaz reported no improvement with injection and inability to perform daily activities of normal living due to the lumbar pain. Dr. Quraishi recommended a second opinion with an orthopedic surgeon.
- **July 22, 2015:** Mr. Diaz underwent a Neurosurgical consultation with Karl W. Swann, M.D., F.A.C.S. for evaluation of low back pain and right lumbar radiculopathy. Mr. Diaz reported symptoms were worsened by prolonged standing. Examination revealed a blood pressure of 148/92, antalgic gait, straight leg raise produced low back and bilateral posterior pain with elevation to 45 degrees bilaterally, some weakness of dorsi plantar flexion of the right foot, hypalgesia to pinprick over the dorsolateral aspect of both feet, and deep tendon reflexes symmetrically hypoactive in the extremities. Dr. Swann reviewed MRI of the lumbar spine performed on January 26, 2015. Dr. Swann provided the impression of lumbar pain and radiculopathy following motor vehicle accident due to herniated nucleus pulposus (HNP) L5-S1. Dr. Swann noted Mr. Diaz's symptoms had not responded to conservative care. Dr. Swann opined that surgery was a reasonable treatment option for MR. Diaz at that point, most probably to take the form of L5-S1 laminectomy, decompression, fusion, internal fixation.
- **August 27, 2015:** Dr. Swann provided Mr. Diaz with an estimate of the total cost of L5-S1 decompressive laminectomy, posterolateral fusion (PLF)/posterior lumbar interbody fusion (PLIF) with pedicle to be \$47,100.00 which included primary surgeon's fee of \$25,100.00 itemized as L5-S1 laminectomy \$5000.00, each additional segment \$1500.00, posterior non-segmental \$5500.00, application device \$5000.00, autograft \$500.00, bone marrow aspiration \$300.00, arthrodesis \$5000.00, allograft \$300.00, and brace \$2000.00 as well as total fees for assistant surgeon to be \$22,000.00 itemized as L5-S1 laminectomy \$5000.00, each additional segment \$1500.00, posterior non-segmental \$5500.00, application device \$5000.00, and arthrodesis \$5000.00.
- **December 30, 2015:** Mr. Diaz had a follow-up neurosurgery consultation with Dr. Dones-Vazquez. Mr. Diaz reported constant aching pain to the low back with severity of 10/10, right leg pain, numbness, insomnia, trouble turning while in bed, and pain aggravated in the morning. Dr. Vazquez reviewed MRI of the cervical and lumbar spine performed on January 26, 2015. Dr.

Vazquez provided diagnoses of low back pain, cervicalgia, intervertebral disc disorder with radiculopathy-lumbosacral region, and cervical disc disorder with radiculopathy-high cervical region. Dr. Vazquez noted Mr. Diaz completed conservative treatment with no improvement in symptoms. Dr. Vazquez recommended an EMG/NCV of the upper and lower extremities and a follow-up in 1 month with imaging results and indicated if EMG of upper extremities confirmed the right C6 radiculopathy, provocative discogram would be warranted for possible anterior cervical discectomy and fusion (ACDF), and if EMG of the lower extremities confirmed right S1 radiculopathy then laminectomy discectomy at L5-S1 would be warranted.

- **January 23, 2016:** An EMG & NCV of the bilateral upper extremities performed at Ultimate Diagnostic Center revealed electrical evidence for a bilateral C6 radiculopathy that was demonstrated by the spontaneous electrical activity from the lower extremity muscles, and there was electrical evidence for an upper extremity motor-sensory neuropathy involving the median nerves that was consistent with the above radiculopathy.

An EMG & NCV of the bilateral lower extremities performed at Ultimate Diagnostic Center revealed electrical evidence for a bilateral L5 radiculopathy that was demonstrated by the spontaneous electrical activity from the lower extremity muscles, there was no electrical evidence for a lower extremity motor-sensory neuropathy, and the nerve conduction study of the bilateral lower extremities was normal.

- **January 29, 2016:** Mr. Diaz had a follow-up neurosurgery consultation with Dr. Dones-Vazquez for reviewing EMG results. Mr. Diaz reported continuation of aching and throbbing pain to the low back and neck with severity of 9/10 and numbness and tingling to the upper and right lower extremity. Dr. Dones-Vazquez reviewed EMG/NCV of the upper and lower extremities performed on January 23, 2016. Dr. Dones-Vazquez provided the diagnosis of cervical disc disorder with radiculopathy - mid-cervical region. Dr. Dones-Vazquez noted Mr. Diaz had C6 radiculopathy and L5-S1 radiculopathy bilateral. Dr. Dones-Vazquez recommended laminectomy/discectomy L5-S1 right to be done at CRH on February 10, 2016.

Ms. Yvette Mercado of Harlingen Spine & Neurosurgical Institute provided Mr. Diaz with an estimate of the total cost of laminectomy/discectomy L5-S1 on the right to be done at CRH on February 10, 2016 of \$49,000.00 which included surgeon's fees of approximately \$15,000.00, anesthesia and facility approximately \$18,000.00, and spinal and medical equipment monitoring while in surgery approximately \$16,000.00.

- **March 3, 2016:** Mr. Diaz underwent right lumbar hemilaminotomy and discectomy L5-S1, performed at North Brownsville Surgery Center by Dr. Dones-Vazquez without complications.

7 Summary of Impairments

On January 20, 2015, Mr. Diaz was injured in a motor vehicle accident, causing lower and upper back pain, left hand weakness, right leg pain, and inflammation.

It is my opinion that information obtained from Mr. Diaz during the interview and assessment I performed on October 2, 2017 is consistent with medical records and opinions regarding Mr. Diaz's impairments and disabilities.

8 Summary of Functional Limitations and Restrictions

Dr. Rafath Quraishi has been treating Mr. Diaz for a lumbar herniated disc since February 25, 2015. Dr. Quraishi reports that Mr. Diaz would be unable to concentrate for more than two hours during a typical eight-hour workday. Dr. Quraishi does not believe that Mr. Diaz exaggerates his symptoms relating to his medical condition.

Dr. Quraishi believes that Mr. Diaz can sit for a total of one hour, stand for a total of one hour, and walk for a total of one hour each during a full eight-hour work day. Dr. Quraishi believes that Mr. Diaz can sit for one hour, stand for one hour, and walk for one hour each on a continuous, uninterrupted basis. Dr. Quraishi reports that Mr. Diaz will require the ability to shift between sitting, standing, and walking at work. Additionally, Dr. Quraishi reports that Mr. Diaz will require the ability to lie down during an eight-hour work day and will require the use of a walker, cane, or other assistive device when walking or standing. Dr. Quraishi reports that Mr. Diaz should lift no more than 10 pounds.

Dr. Quraishi reports Mr. Diaz will never be able to perform the following functions:

- Bilateral handling and/or fingering
- Bilateral reaching
- Stooping
- Kneeling
- Crawling
- Crouching

Additionally, Dr. Quraishi reports that Mr. Diaz experiences the following symptoms frequently: poor memory, difficulty thinking or concentrating, perceptual disturbances, sleep disturbances, hostility, and irritability.

Dr. Quraishi reports that Mr. Diaz has extreme limitation in his activities of daily living and marked limitation in the following areas: his ability to deal with normal work stress, his ability to report to work on time every day, his ability to work in coordination with others, his ability to follow basic instructions and stay on task, his ability to concentrate, and his ability to complete tasks in a timely manner. Additionally, Dr. Quraishi reports that Mr. Diaz will have continual expected monthly episodes of deterioration or decompensation in work-like settings.

Dr. Quraishi believes that Mr. Diaz's symptoms would prevent full-time, competitive, and ongoing work.

8.1 Vocational Limitations

It is my opinion, based on my assessment of Mr. Diaz's medical records, and my interviews with Mr. Diaz, that he demonstrates significant vocational limitations which will most likely hinder his employability. These limitations include:

- Standing

- Sitting
- Pushing/Pulling
- Driving
- Carrying
- Squatting
- Walking (no more than half of a block)
- Grasping
- Lifting

Mr. Diaz reports that he has restriction in the following areas:

- Concentration
- Memory

Mr. Diaz reports difficulty grasping and experiences daily pain, inflammation, and swelling in his hands which makes it difficult for him to use a computer. Mr. Diaz reports that he is unable to sit longer than 40 minutes at a time or stand longer than 30 minutes at a time without pain. He states that he is unable to walk longer than half of a block before he leg begins to tingle and go to sleep. Mr. Diaz reports difficulty sleeping due to discomfort and awakens 4-5 times per night. Mr. Diaz reports regular soreness and pain in his back. Mr. Diaz states that he becomes angry with his children easily due to his pain. He also reports that he is unable to drive due to pain and discomfort and feels nervous and anxious when he is in a car after the accident.

9 Education History

- Mr. Diaz graduated from JW Nixon High School in 1993.

10 Professional / Employment History

- **Employer:** Various Employers
Period: 1997 – 1999, 2003 - 2015
Job Title: Truck Driver
Earnings: \$40,000 - \$60,000 per annum

Mr. Diaz's responsibilities included driving across 48 states delivering various materials and products.

- **Employer:** Guzman Trucking
Period: 2015
Job Title: Truck Driver
Earnings: \$600 - \$1,000 per week

Mr. Diaz's responsibilities included delivering various materials, including car parts and tires, across 48 states.

11 Summary of Work-Related Demands

The purpose of this Summary of Work-Related Demands is to properly characterize the work-related conditions and professional skills required to successfully occupy positions similar to those with which Mr. Diaz has experience.

From 1997 – 2015, Mr. Diaz was employed as a Truck Driver. Mr. Diaz's most recent and relevant job descriptions are outlined below.

11.1 Tractor Trailer Truck Driver

The following information was collected using SkillTRAN vocational software. The SkillTRAN software analyzes transferable skills and defines specific work characteristics. SkillTRAN also factors the amount of training and/or experience (SVP - Specific Vocational Preparation) typically required for each Work Field. These codes are fully described in the Department of Labor's Revised Handbook for Analyzing Jobs, 1991 (RHAJ)³.

- SkillTRAN Job Title Description: Tractor Trailer Truck Driver
- DOT (Dictionary of Occupational Title) Code: 904.383-010

11.2 Occupational Requirements of a Tractor Trailer Truck Driver

The requirements of a Tractor Trailer Truck Driver, as defined by SkillTRAN:

"Description: Drives gasoline or diesel-powered tractor-trailer combination, usually long distances, to transport and deliver products, livestock, or materials in liquid, loose, or packaged form: Drives truck to destination, applying knowledge of commercial driving regulations and skill in maneuvering vehicle in difficult situations, such as narrow passageways. Inspects truck for defects before and after trips and submits report indicating truck condition. Maintains driver log according to I.C.C. regulations. May assist workers in loading and unloading truck. May transport new automobiles or trucks from manufacturers or rail terminals to dealers and be designated Transport Driver (motor trans.). May drive tractor with two trailers hitched in tandem and be designated Double-Bottom Driver (any industry). May drive tractor-trailer combination to deliver poles for utility and construction companies and be designated Pole-Truck Driver (construction; tel. & tel.; utilities). May work as member of two-person team driving tractor with sleeper bunk behind cab and be designated Long-Haul-Sleeper Driver (any industry). May drive tractor-trailer combination to deliver or spray water and be designated Water-Truck Driver (construction; petrol. & gas) I."⁴

³ <http://www.skilltran.com/index.php/support-area/documentation/1991rhaj>

⁴ <http://www.skilltran.com/index.php/support-area/documentation/1991rhaj>

11.3 Physical Requirements of a Tractor Trailer Truck Driver⁵

Strength Requirement: Medium. Exert force of 20-50 pounds occasionally, 10-25 pounds frequently, or up to 10 pounds constantly.

- CL (Climbing) – Occasional
- BA (Balancing) – Occasional
- ST (Stooping) – Occasional
- CR (Crouching) – Occasional
- RE (Reaching) – Frequent
- HA (Handling) – Frequent
- FI (Fingering) – Frequent
- HE (Hearing) – Occasional
- Vision
 - NE (Near Acuity) – Frequent
 - FA (Far Acuity) – Frequent
 - DE (Depth Perception) – Frequent
 - CV (Color Vision) – Frequent
 - FV (Field of Vision) – Frequent

11.4 Environmental Working Conditions of a Tractor Trailer Truck Driver⁶

The Occupational Outlook Handbook provides the following description for the working conditions of a Tractor Trailer Truck Driver:

- WE (Exposure to Weather) – Frequent
- NO (Noise Intensity Level) – Loud

The Occupational Outlook Handbook provides the following description for the working conditions of a Tractor Trailer Truck Driver:

⁵ U.S. Dept. of Labor, Selected Characteristics of Occupations Defined in the Dictionary of Occupational Titles (1993). (electronic files contain all, not just selected characteristics.) U.S. Dept. of Labor, The Revised Handbook for Analyzing Jobs, (1991). (Excerpts for Aptitudes available at <http://www.skilltran.com/rhaj/chapter12.htm>)

⁶ DATA SOURCE: Bureau of Labor Statistics, U.S. Dept. of Labor, Occupational Outlook Handbook, 2010-2011 Edition (2010). Available at <http://www.bls.gov/oco/> Page: 431

“Truck driving has become less physically demanding because most trucks now have more comfortable seats, better ventilation, and improved, ergonomically designed cabs. Although these changes make the work environment less taxing, driving for many hours at a stretch, loading and unloading cargo, and making many deliveries can be tiring. Local truck drivers, unlike long-distance drivers, usually return home in the evening. Some self-employed long-distance truck drivers who own and operate their trucks spend most of the year away from home. The U.S. Department of Transportation governs work hours and other working conditions of truck drivers engaged in interstate commerce. A long-distance driver may drive for 11 hours and work for up to 14 hours—including driving and non-driving duties—after having 10 hours off-duty. A driver may not drive after having worked for 60 hours in the past 7 days or 70 hours in the past 8 days unless they have taken at least 34 consecutive hours off. Most drivers are required to document their time in a logbook. Many drivers, particularly on long runs, work close to the maximum time permitted because they typically are compensated according to the number of miles or hours they drive. Drivers on long runs face boredom, loneliness, and fatigue. Drivers often travel nights, holidays, and weekends to avoid traffic delays. Local truck drivers frequently work 50 or more hours a week. Drivers who handle food for chain grocery stores, produce markets, or bakeries typically work long hours—starting late at night or early in the morning. Although most drivers have regular routes, some have different routes each day. Many local truck drivers, particularly driver/sales workers, load and unload their own trucks. This requires considerable lifting, carrying, and walking each day.”⁷

A Tractor Trailer Truck Driver requires a SVP Level of 4. This is considered a semi-skilled position; employees in this occupation typically require three to six months of experience.

Specific Vocational Preparation (SVP) is defined by the *Dictionary of Occupational Titles*⁸, a United States Department of Labor publication, as the amount of time required by a typical worker to learn techniques, acquire information, and develop faculty needed in order to perform at an average level with a specific work environment.

12 Activities/Interests

Mr. Diaz reports his pre- and post-injury activities and interests as follows:

Household Maintenance Activities (Indoor):

- Pre-injury: cooking, cleaning, assisting wife around the house, painting
- Post-injury: none reported, unable to lift 10 month old or a gallon of milk

Household Maintenance Activities (Outdoor):

- Pre-injury: mowing lawn, yard maintenance
- Post-injury: none reported

Recreation & Leisure Activities:

⁷ DATA SOURCE: Bureau of Labor Statistics, U.S. Dept. of Labor, Occupational Outlook Handbook, 2010-2011 Edition (2010). Available at <http://www.bls.gov/oco/> Page: 431

⁸ <http://www.occupationalinfo.org/07/079361018.html>

- Pre-injury: taking children to the park, playing with kids, running
- Post-injury: none reported

Social Activities

- Pre-injury: going out dancing with wife, walking around the mall, going to the grocery store
- Post-injury: none reported

Hobbies/Interests

- Pre-injury: playing games on phone, Playstation
- Post-injury: none reported

13 Vocational Goals

Mr. Diaz states that he does not have any vocational goals at this point. He does not believe that he would be able to work because of his pain and lack of transferable skills. Mr. Diaz states that he feels very discouraged because he was the primary provider for his family and he is unable to do that at this point.

14 Vocational Assessment

A comprehensive vocational evaluation was conducted on October 2, 2017 over a period of three hours. Mr. Diaz arrived to his appointment on time and was compliant in answering all questions. The results of the assessment are based on information provided by Mr. Diaz during the interview, my review of his medical and vocational records, and my assessment of his vocational testing results.

14.1 Testing

CareerScope is an online, computer-based, timed assessment which measures interest and aptitude and is used in education and vocational guidance. CareerScope enhances the career and educational planning process for those in education, workforce development, vocational rehabilitation and other related fields by measuring both interest and aptitude through valid and reliable assessment tasks.

CareerScope has been validated against the GATB, which is the US Department of Labor's aptitude test. Based on an independent research study, CareerScope was found to have both reliability and validity with a scale of .7 to .8.⁹

CareerScope test results incorporate both the Dictionary of Occupational Titles (DOT) and O*Net Classification system. Both of these classification systems are widely accepted in the vocational rehabilitation field as reliable resources for career data.

CareerScope measures the evaluatee's General learning ability (G), Verbal ability (V), Numerical aptitude (N), Spatial aptitude (S), Form perception (P), and Clerical perception (Q).

⁹ http://www.cdspacific.com/research_report.pdf

CareerScope is a computerized, timed and self-administered assessment using a keyboard and mouse. The assessment is written at a fourth grade reading level and test results are provided in percentiles and ranges.¹⁰

CareerScope's percentile scores specify the percentage of other adults who scored below the evaluatee. A percentile score of 50% would indicate that 50 percent of adults within the comparison group scored below the evaluatee.

14.2 Assessment Results

Mr. Diaz's scores are as follows:

	Score	Percentile
G – Intelligence General learning ability	61	3%
V – Verbal Ability to understand meanings of words and ideas associated with them	63	3%
N – Numerical Ability to perform arithmetic operations quickly and accurately	71	7%
S – Spatial Ability to comprehend forms in space and understand relationships of plane and solid objects.	75	11%
P – Form Perception Ability to perceive pertinent detail in objects or in pictorial or graphic material	52	1%
Q – Clerical Perception Ability to perceive pertinent detail in verbal or tabular material	75	11%

15 Post-Injury / Current Professional Capacity

15.1 Transferable Skills

Transferable skills can be defined as skills developed in one situation which can transfer to another situation.¹¹ These skills are necessary for effective performance in the workplace. Individuals may gain these skills from previous employment, projects, voluntary work, sport, home life, hobbies, and interests. Transferable skills enable individuals to be adaptable and flexible and may be helpful should a career change be necessary.

Mr. Diaz obtained some transferable skills throughout his career as a truck driver including but not limited to: time management skills, operations skills, logistics skills, and planning skills. Although many of Mr. Diaz's skills are transferable, it will be difficult for him to perform many of these skills due to his current physical limitations.

¹⁰ <http://www.benefits.va.gov/gibill/careerscope.asp>

¹¹ https://www.tcd.ie/Careers/downloads/Transferable_Skills_flyer.pdf

16 Access to the Labor Market

Access to the labor market is defined as a potential employee's access to vocational opportunities and choices in the labor market. Access to the labor market can be affected by transferability of skills, professional experience and disability statistics.¹²

Prior to his injury, Mr. Diaz had some transferable skills and years of experience as a truck driver. With his current physical limitations, it is my opinion that Mr. Diaz's access to the labor market has been severely diminished, and returning to his previous career is not a viable possibility. Mr. Diaz also has limited potential for future job opportunities based on his current limitations, level of pain, and job accommodation requirements. Mr. Diaz scored in the below average range in all categories of his aptitude assessment, which indicate that learning a new career would be difficult.

17 Accommodations / Placeability

According to the United States Department of Labor – "Under the Americans with Disabilities Act, covered employers are required to provide "reasonable accommodations" to qualified job applicants and employees with disabilities. In the employment context reasonable accommodations is defined as any change or adjustment to a job, the work environment, or the way things usually are done that would allow an individual with a disability to apply for a job, perform, job functions, or enjoy equal access to benefits available to other individuals in the workplace. Job accommodations allow for modifying a job and/or job site, or the way in which a job is performed so that an individual with a disability may have equal access to all aspects of work."¹³

If Mr. Diaz were to return to work at any point, he would likely need special accommodations to be successful. Some accommodations that will be helpful for Mr. Diaz include but are not limited to: taking breaks on a regular basis or when needed, alternating sitting and standing, having a mostly sedentary position, working on a part time basis, and having an ergonomic work station.

Mr. Diaz's current condition is progressive having lifelong symptoms. These symptoms affect him physically and may require long-term medical care. This, in addition to his limited transferable skills and need for accommodations, may limit employers willingness to hire him over equally qualified candidates.

18 Earning Capacity

Earning capacity is based on a person's capability or power to acquire money by contributing a person's talent, skills, training and experiences. Earning capacity is determined by several factors:

1. What jobs the person is capable of doing based on training, physical capacity and experience
2. Future career possibilities
3. Functional limitations based on medical disabilities and diagnoses

¹² Foundations of Forensic Vocational Rehabilitation

¹³ <https://www.dol.gov/odep/topics/accommodations.htm>

4. Need and ability for retraining
5. Vocational Adjustment issues

Prior to his injury, Mr. Diaz was employed as a Truck Driver earning \$600-\$1000 per week, or \$31,200-\$52,000 per annum.

19 Labor Force Participation

Mr. Diaz is unable to return to his past relevant work as a Truck Driver due to the physical requirements of the job.

Based on Mr. Diaz's current physical limitations and level of pain, it is my opinion that he will maintain significant vocational disabilities that will require accommodations for future employment if he were to seek employment.

Mr. Diaz would most likely be eligible for state vocational rehabilitation services through the Texas Department of Rehabilitation Services.¹⁴ It is my recommendation that he apply for services so that he may receive additional resources.

Mr. Diaz is most likely going to face higher competition from non-impaired workers for open positions. Additionally, his injuries may require future therapy and/or treatment which would cause time away from work. Dr. Quraishi believes that Mr. Diaz's conditions prevent full time, competitive, and ongoing employment.

20 Author

Andrea Bradford is a vocational specialist and Certified Rehabilitation Counselor who has provided vocational evaluation, occupational counseling, and labor market evaluation services for the severely disabled since 2009.

Mrs. Bradford's professional career includes work with Capital City Rehabilitation Group, Pivotal Career Services, Heart Rocks Therapy, Austin Career Coaching, and the Department of Assistive and Rehabilitative Services (DARS).

Her professional associations include the International Association of Rehabilitation Professionals, the American Board of Vocational Experts, the Baylor Women's Council of Austin, and Junior League of Austin.

Mrs. Bradford's academic and teaching appointments include lecturer and curriculum design positions at the University of Texas at Austin, and the Austin Resource Center for Independent Living.


Mrs. Bradford earned a Bachelor of Arts from Baylor University in Waco, Texas, and a Master of Education in Rehabilitation Counseling from The University of Texas at Austin.

¹⁴ <http://www.dars.state.tx.us/>

21 Conclusion

Due to Mr. Diaz's condition, it is my opinion that he has sustained a loss of between \$31,200 - \$52,000 in annual earning capacity. Assuming the social security retirement age of 67, this amounts to a loss of earnings capacity of between \$780,000 - \$1,300,000. This figure is an estimate, and it does not account for benefits, home services, wage inflation, life cycle adjustments, changes in his current condition, the time value of money, etc.

Sincerely,



Andrea Bradford M.Ed., CRC

Associate Vocational Specialist, Physician Life Care Planning, LLC

22 Sources

- Owings, Stan. Understanding Earning Capacity Assessment and Earning Capacity Options. American Bar Association, 2009. Print.
- Zasler, Nathan D., Katz, Douglas I., and Zafonte, Ross D. Brain Injury Medicine, 2nd Edition: Principles and Practices, 2013. Print.
- Robinson, Rick. Foundations of Forensic Vocational Rehabilitation, 2014. Print.
- Berens PH.D., CRC, CCM, CLCP, Debra E., and Taylor and Francis Group, LLC, Life Care Planning and Case Management Handbook Third Edition. 2009. Print.
- Commission on Rehabilitation Counselor Certification; <https://www.crc certification.com/code-of-ethics-3>
- Dictionary of Occupational Titles, <http://www.occupationalinfo.org/07/079361018.html>
- Andrews, J. Higson, 2008, https://www.tcd.ie/Careers/downloads/Transferable_Skills_flyer.pdf
- Tipton, Tracy, Independent Research Report, http://www.cdspacific.com/research_report.pdf
- United States Department of Labor, <https://www.dol.gov/odep/topics/accommodations.htm>
- Texas Department of Rehabilitative Services, <http://www.dars.state.tx.us/>
- Bureau of Labor Statistics, http://www.bls.gov/oes/current/oes_tx.htm#13-0000
- Sperlings Best Places, <http://www.bestplaces.net/economy/city/texas/lubbock>
- JAN, Job Accommodation Network, A service of the Office of Disability Employment Policy, U.S. Department of Labor, <https://askjan.org/topics/discl.htm>

22.1 Vocational Resources Consulted:

- O*Net (Occupational Information Network) On Line <http://online.onetonline.org>
- Dictionary of Occupational Titles, Fourth Edition-Revised, U.S. Department of Labor, Employment and Training Administration/JIST works, Inc., 1991.
- Job Browser Pro, Version 1.6 6 Skilltran, Spokane, WA 2012

23 Exhibits

23.1 Labor Market Survey

Geographical Data

Mr. Morales resides in Laredo, Texas. The most recent population estimate as of 2016 for Laredo was 257,156. The median household income in 2015 was \$39,711 and the per capita income was \$15,395. Individuals with a high school diploma or higher is 66.3%, and with a bachelor's degree or higher is 17.6%.¹⁵ The median age for Laredo is 28.6 years¹⁶.

Sources

In performing this labor market survey, I sourced information from the following organizations:

- US Census Bureau
- US Bureau of Labor Statistics
- Texas Workforce Commission

Commerce & Industry

The unemployment rate for Laredo, Texas in August 2017 was 4.4%¹⁷.

Employment by Industry for the Laredo MSA from greatest percentage to least is as follows¹⁸:

- | | |
|--|-----|
| • Trade, transportation, and utilities | 30% |
| • Government | 22% |
| • Education and Health Services | 16% |
| • Leisure and Hospitality | 11% |
| • Professional and business services | 10% |
| • Financial Activities | 4% |
| • Mining, Logging, and Construction | 3% |
| • Other Services | 2% |
| • Manufacturing | 1% |
| • Information | 1% |

¹⁵ <https://www.census.gov/quickfacts/fact/table/laredocitytexas,TX,US/PST045216>

¹⁶ <https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=CF>

¹⁷ https://www.bls.gov/eag/eag.tx_laredo_msa.htm

¹⁸ http://www.tracer2.com/admin/uploadedpublications/1722_laredomsa.pdf

Income & Wage Data

Average Occupational Hourly Wages for all occupations in Laredo, Texas MSA is \$17.43, according to the Bureau of Labor Statistics¹⁹. This is lower than the Texas average hourly wage of \$22.97²⁰ and the national average hourly wage of \$23.86²¹.

Occupation	DOT	SVP	Strength
Tractor Trailer Truck Driver	904.383-010	4	Medium

Amendment on January 12, 2018:

I have had the opportunity to review additional medical records that were provided on December 28th 2017. At this time there are no changes or revisions to my original report.

Andrea Bradford

Sincerely,

Andrea Bradford M.Ed., CRC

Associate Vocational Specialist, Physician Life Care Planning, LLC

¹⁹ https://www.bls.gov/oes/current/oes_29700.htm#00-0000

²⁰ https://www.bls.gov/oes/current/oes_tx.htm#00-0000

²¹ https://www.bls.gov/oes/current/oes_nat.htm#00-0000